

§ 17.81

ADMINISTRATIVE WAGE GARNISHMENT

§ 17.81 Administrative wage garnishment.

(a) *In general.* HUD may collect a debt by using administrative wage garnishment pursuant to 31 CFR 285.11. To the extent that situations arise that are not covered by 31 CFR 285.11, those situations shall be governed by 24 CFR part 26, subpart A.

(b) *Hearing official.* Any hearing required to establish HUD's right to collect a debt through administrative wage garnishment shall be conducted by an administrative judge of the OA under 24 CFR part 26, subpart A of part 26.

SALARY OFFSET

§ 17.83 Scope and definitions.

(a) The provisions set forth in §§ 17.83 through 17.113 are the Department's procedures for the collection of delinquent nontax debts by salary offset of a Federal employee's pay to satisfy certain debts owed the government, including centralized salary offsets in accordance with 31 CFR part 285.

(b)(1) This section and §§ 17.85 through 17.99 apply to collections by the Secretary through salary offset from current employees of the Department and other agencies who owe debts to the Department; and

(2) This section, § 17.85, and §§ 17.101 through 17.113 apply to HUD's offset of pay to current employees of the Department and of other agencies who owe debts to HUD or other agencies under noncentralized salary offset procedures, in accordance with 5 CFR 550.1109.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1-9602), the Social Security Act (42 U.S.C. 301-1397f), the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) These regulations identify the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition

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for a hearing, receiving a written decision if a hearing is granted, and the opportunity to propose a repayment agreement in lieu of offset. These employee rights do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in these regulations precludes the compromise, suspension, or termination of collection actions where appropriate under the Department's regulations contained elsewhere in this subpart (see 24 CFR 17.61 through 17.79).

(f) As used in the salary offset provisions at §§ 17.83 through 17.113:

Agency means:

(i) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. 101, 102, 103, or 104, respectively;

(ii) The United States Postal Service; or

(iii) The Postal Regulatory Commission.

Debt means an amount owed to the United States and past due, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from assigned mortgages or deeds of trust, direct loans, advances, repurchase demands, fees, leases, rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Determination means the point at which the Secretary or his designee decides that the debt is valid.

Disposable pay means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after deductions required by law. Deductions from pay include:

(i) Amounts owed by the individual to the United States;

(ii) Amounts withheld for Federal employment taxes;

(iii) Amounts properly withheld for Federal, state, or local income tax purposes, if the withholding of the amount is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts under 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of tax obligation that supports the additional withholding;

(iv) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

(v) Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary;

(vi) Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemembers' Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary;

(vii) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(viii) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and

(ix) Fines and forfeitures ordered by a court-martial or by a commanding officer.

Employee means a current employee of a Federal agency, including a current member of the Armed Forces or

Reserve of the Armed Forces of the United States.

Pay means basic pay, special pay, income pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.

Salary offset means a deduction from the pay of an employee without his or her consent to satisfy a debt. Salary offset is one type of administrative offset that may be used by the Department in the collection of claims.

Waiver means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee of an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, or 5 U.S.C. 8346(b), or any other law.

§ 17.85 Coordinating offset with another Federal agency.

(a) *When HUD is owed the debt.* When the Department is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until the Department provides the agency with a written certification that the debtor owes the Department a debt (including the amount and basis of the debt and the due date of the payment) and that the Department has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

§ 17.87 Determination of indebtedness.

In determining that an employee is indebted to HUD, the Secretary will review the debt to make sure that it is valid and past due.

§ 17.89 Notice requirements before offset.

Except as provided in § 17.83(d), deductions will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to